

REMARKS

Applicants respectfully request reconsideration of the present application. No new matter has been added to the present application. Claims 1-3 and 8-10 have been rejected and claims 4-7 have been objected to in the Office Action. Applicants have amended claims 1 and 8 and have presented claims 2-7, 9, and 10 in their original form. Applicants previously canceled non-elected claims 11-16 in a Response to Restriction Requirement and expressly reserved its right to pursue the subject matter of those claims in a continuation application. Applicants have added new claims 17-20. Accordingly, claims 1-10 and 17-20 are pending herein. Claims 1-10 and 17-20 are believed to be in condition for allowance and such favorable action is respectfully requested.

Informalities

The specification has been objected to in the Office Action because the abstract of the disclosure contained phrases which can be implied. Applicants have amended the specification to replace the abstract with an amended abstract. It is believed that the abstract no longer contains any such phrases.

The specification has also been objected to in the Office Action because paragraph [0002] had not been updated to indicate that Application No. 10/388,826 has matured into U.S. Patent No. 6,729,786. Applicants have amended paragraph [0002] to include this information.

The specification was also objected to because reference character 34 of FIG. 1 was not present in the specification. Applicants have amended FIG. 1 to remove reference character 34.

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to FIG. 1. This sheet, which includes FIGS. 1-4, replaces the original sheet including FIGS. 1-4. In FIG. 1, the reference character 34 has been removed.

Attachment: Replacement Sheet

Applicants submit that the amendments to the specification and the drawings overcome the objections. As such, Applicants request withdrawal of the objections to the specification.

Rejections based on 35 U.S.C. § 112

Claim 8 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention due to lack of antecedent basis for “said open end of said body.” Claim 8 has been amended by changing “said open end of said body” to “an open end of said body.” Applicants respectfully submit that the amendment overcomes the rejection. As such, Applicants request withdrawal of the rejection to claim 8 under 35 U.S.C. § 112, second paragraph.

Rejections based on 35 U.S.C. § 102

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdeggal Brothers v. Union Oil co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 2 USPQ 2d 1913, 1920 (Fed. Cir. 1989). *See also*, MPEP § 2131.

Claims 1-3 and 8-10 have been rejected under 35 U.S.C. 102(b) as being anticipated by Barosso et al. (“Barosso”). As the Barosso reference fails to describe either expressly or inherently, each and every element as set forth in the rejected claims, Applicants respectfully traverse this rejection, as hereinafter set forth.

Independent claim 1, as currently amended, is drawn to a method of making a liquid applicator, the applicator shaped for receiving a frangible ampoule containing a liquid to be applied. The method comprises providing a substantially hollow body adapted to receive at least one ampoule, providing at least one ampoule containing a liquid to be applied received within the body, and positioning at least one porous element comprising colorant such that liquid flows through the element when the at least one ampoule is fractured and at least some of the colorant is transferred to the liquid to be applied.

It is respectfully submitted that the Barosso reference fails to describe, either expressly or inherently, each and every element as set forth in claim 1. Particularly, the Barosso reference fails to describe, either expressly or inherently, providing at least one liquid containing ampoule within a body as recited in amended claim 1. Rather, Barosso discloses filling a reservoir with dissolving fluid by pouring the liquid into the reservoir (see col. 7, lines 50-52 and FIG. 4). There is no mention of providing a liquid filled ampoule within the reservoir.

As such, it is respectfully submitted that the Barosso reference fails to describe, either expressly or inherently, each and every element of independent claim 1, as amended herein. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 1 under 35 U.S.C. § 102(b). Claim 1 is believed to be in condition for allowance and such favorable action is respectfully requested.

Each of claims 2-10 depend directly or indirectly from claim 1, and accordingly, these claims are believed to be in condition for allowance for at least the above-cited reasons. Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. § 102(b) rejections to these claims as well.

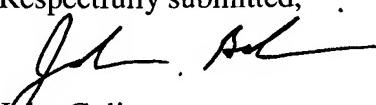
Allowable Subject Matter

Claims 4-7 have been objected to as being dependent upon a rejected base claim. However, it is indicated that claims 4-7 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicants have added claims 17-20, which correspond with claims 4-7, respectively. Claim 17 corresponds with claim 4, but has been written in independent form including all the limitations of the base claim for claim 4. Claims 18-20 correspond with claims 5-7, respectively, and depend directly or indirectly from claim 17. Applicants respectfully submit that claims 17-20 are in condition for allowance and such favorable action is respectfully requested.

CONCLUSION

For the reasons stated above, claims 1-10 and 17-20 are believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1-10 and 17-20. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned by telephone prior to issuing a subsequent action. It is believed that no fee is due in conjunction with the present amendment. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required (or to credit any overpayment) to Deposit Account No. 19-2112.

Respectfully submitted,



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